

**UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
SAN JOSE DIVISION
Honorable Edward J. Davila
Courtroom 4 - 5th Floor**

**TITLE: *UNITED STATES v. RAMESH SUNNY BALWANI*
CASE NUMBER: 5:18-CR-00258-2 EJD**

Minute Order and Trial Log

Date: June 9, 2022

Time in Court: (9:02-9:48 AM; 10:04-10:16 AM; 10:35 AM – 12:13 PM;
12:40 – 2:08 PM; 3:14 – 4:25 PM)
TOTAL Time: 5 hr, 15 min

Courtroom Deputy Clerk: Cheré Robinson

Court Reporter: Irene Rodriguez

APPEARANCES:

Plaintiff Attorney(s) present: Jeffrey Schenk, Robert Leach, John Bostic, Kelly Volkar

Also present: Special Agent - Chris McCollow
Paralegals – Maddi Wachs; Sara Slattery

Defendant Attorney(s) present: Jeffrey Coopersmith, Amy Walsh, Stephen Cazares, Aaron Brecher, Shawn Estrada, Sachi Schuricht, Molly McCafferty, Amanda McDowell

Also present: Reese Oñate
Paralegal – Jennifer Cygnor

Also present: Ramesh Sunny Balwani (out-of-custody)

PROCEEDINGS: Motion Hearing and Jury Trial (Day 36)

Motion Hearing: 46 min (9:02-9:48 AM)

Hearing re [1475] Order Granting in Part and Denying in Part [1470] Motion To Admit Various Trial Exhibits and on [1479] Motion to Admit Trial Exhibit 20832 held.

Jury Trial: 4 hr, 29 min (10:04-10:16 AM; 10:35 AM – 12:13 PM; 12:40 – 2:08 PM; 3:14 – 4:25 PM)

Jury Trial held June 9, 2022. Testimony held and evidence entered.

See attached Trial Log.

The following exhibits were identified and offered:

Plaintiffs: 5897, 5915, 5916, 5917, 5943, 5930, 5931

Defendants: 7286, 15004, 15029, 15058, 20073A, 20145, 20788, 20817, 20826, 20827, 20830, 20832

The following exhibits are admitted into evidence:

Plaintiffs: 5897, 5915, 5916, 5917, 5943

Defendants: 7286, 15004, 15029, 15058, 20073A, 20145, 20788, 20817, 20826, 20827, 20830, 20832

**UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA**

HONORABLE EDWARD J. DAVILA

Case Name: *United States v. Ramesh Sunny Balwani*

Case No: 5:18-CR-00258-2 EJD

TRIAL LOG

TRIAL DATE: June 9, 2022			REPORTER: Irene Rodriguez	CLERK: Cheré Robinson
PLF	DEFT	TIME	DESCRIPTION	
		9:02 am	Court in session with Counsel out of presence of Jury and witnesses	
			Hearing re [1475] Order Granting in Part and Denying in Part [1470] Motion To Admit Various Trial Exhibits	
		9:32 am	Hearing on [1479] Motion to Admit Trial Exhibit 20832	
		9:47 am	Court will allow 20832 to be admitted, not for the truth of the matter but only for notice.	
			Court defers ruling re [1475] Order on admission of various trial exhibits	
		9:48 am	Court breaks for 10 min	
		9:58 am	Jury present	
		10:04 am	Court in session in presence of Jury	
		10:05 am	Court excuses Juror #5 and	
		10:05 am	Court queries Jury re previous admonishment	
		10:06 am	Defense calls Witness #27 Richard Sonnier	
		10:07 am	Richard Sonnier sworn and takes stand	
		10:08 am	Defense begins direct examination of Richard Sonnier	
		10:16 am	Court breaks for 19 min	
		10:35 am	Court in session in presence of Jury	
			Defense continues direct examination of Richard Sonnier	
		10:37 am	Defense offers Richard Sonnier as an expert witness in data recovery and data encryption	

TRIAL DATE: June 9, 2022			REPORTER: Irene Rodriguez	CLERK: Cheré Robinson
PLF	DEFT	TIME	DESCRIPTION	
		10:38 am	Court permits Richard Sonnier to testify as expert witness in data recovery and data encryption	
Obj	20005	10:43 am	Defense requests display of pp. 2-3 for demonstrative purposes only	
			Foundation to be laid	
Obj	20005	10:44 am	Defense requests display of pp. 2-3 for demonstrative purposes only	
			Further foundation to be laid	
Obj	20005	10:46 am	Defense requests display of pp. 2-3 for demonstrative purposes only.	
		10:47 am	Court permits display of demonstrative with the understanding that the demonstrative does not represent the specific architecture, but rather a representation of similar architecture, and only to assist witness. Not admitted as evidence.	
Obj	20832	11:14 am	Offered into Evidence pp. 2-4	
			ADMITTED into Evidence (p.2 – not offered for the truth of the matter asserted but only for notice to the Government): 2018-10-04 Sutton Email to Schenk re Theranos 1 TB drive; (pp. 3-4 admitted only for contextual purposes)	
		11:20 am	Defense completes direct examination of Richard Sonnier	
			Government begins cross-examination of Richard Sonnier	
5915	Obj	11:27 am	Offered into Evidence	
		11:29 am	ADMITTED into Evidence (not for the truth of the matter asserted, but for context): 2018-02-13 DOJ Cover Letter to Theranos, Inc. Custodian of Records re Grand Jury Subpoena (Investigation # 2016R00024), and attachment – 2018-02-13 Subpoena to Testify Before a Grand Jury to Custodian of Records, Theranos, Inc.	
5916		11:33 am	ADMITTED into Evidence (not for the truth of the matter asserted but for context): 2018-04-20 Subpoena to Testify Before a Grand Jury to Theranos, Inc.	
		12:13 pm	Court breaks for 27 min	
		12:40 pm	Court in session in presence of Jury and Witness #27 Richard Sonnier	
			Government continues cross-examination of Richard Sonnier	

TRIAL DATE: June 9, 2022			REPORTER: Irene Rodriguez	CLERK: Cheré Robinson
PLF	DEFT	TIME	DESCRIPTION	
5897	Obj	12:42 pm	Offered into Evidence	
		12:43 pm	ADMITTED into Evidence: 2018-08-28 Theranos/Wilmer Hale Email String re Call re LIS (priv/conf) – time sensitive	
5943		12:47 pm	ADMITTED into Evidence: Oct 2018 DOJ Email String re Theranos 1 TB drive	
5917	Obj	12:51 pm	Offered into Evidence	
		12:54 pm	ADMITTED into Evidence (not admitted for the truth of the matter asserted but for notice to the Government): Mar 2019 Bostic/O'Neill Email String re Theranos	
5930	Obj	1:05 pm	Offered into Evidence	
		1:08 pm	Objection sustained	
5931	Obj	1:10 pm	Offered into Evidence	
			Foundation to be laid	
		1:18 pm	Government completes cross-examination of Richard Sonnier	
		1:19 pm	Defense begins re-direct examination of Richard Sonnier	
		1:33 pm	Ex. 5943, previously admitted	
		1:34 pm	Ex. 20832, previously admitted	
		1:37 pm	Defense completes re-direct examination of Richard Sonnier	
			Witness #27 Richard Sonnier excused	
		1:40 pm	Defense moves to admit certain exhibits	
	15004	1:42 pm	ADMITTED into Evidence (not admitted for the truth of the matter asserted but only for notice to Mr. Balwani of the subject): Oct 2010 Gibbons/Holmes Email String re GSK	
	15058	1:45 pm	ADMITTED into Evidence (not admitted for the truth of the matter asserted but only for notice to Mr. Balwani of the subject): 2009-12-15 Holmes Email to Breuer re Follow up to our meeting, and attachment slides	

TRIAL DATE: June 9, 2022			REPORTER: Irene Rodriguez	CLERK: Cheré Robinson
PLF	DEFT	TIME	DESCRIPTION	
	20817	1:47 pm	ADMITTED into Evidence, pp. 1-4: US FDA webpage - 510(k) Premarket Notification accessed 2022-05-18, and 2015-07-07 FDA Letter to Theranos re K143236 – Correction Letter to 7/2/2015 substantially equivalent letter	
	20826	1:49 pm	ADMITTED into Evidence, pp. 1-3 (p. 1 - not admitted for the truth of the matter asserted but only for notice): Jul 2015 Theranos/FDA Email String re CW150009 CLIA Waiver Granted Notification, and 2015-07-15 US DHHS Letter to Theranos re CS15009 – Waiver Granted Notification, with attachment	
	15029	1:53 pm	ADMITTED into Evidence (not admitted for the truth of the matter asserted but only for disclosure to FDA): 2013-10-23 Holmes email to Hojvat and Hobson re Tests run in Theranos CLIA laboratory from Samples collected in Theranos Wellness Centers	
	7286	1:54 pm	ADMITTED into Evidence (not admitted for the truth of the matter asserted but only for notice to Mr. Balwani of the subject): Apr 2013 Young/Balwani/Holmes Email Chain re assays for FDA filing	
	20827	1:55 pm	ADMITTED into Evidence (not admitted for the truth of the matter asserted but only for notice to Mr. Balwani of the subject): May-July 2015 Email String re Suraj Saxena: Clinical Lab Director application	
	20830	1:57 pm	ADMITTED into Evidence (not admitted for the truth of the matter asserted but only for notice to Mr. Balwani of the subject): Excerpts from 2013-10-08 Provisional Patent Application entitled <i>Devices, Methods and Systems for Reducing Sample Volume</i>	
		2:00 pm	Court reads stipulations on record at ECF Nos. 1472 and 1473	
	20073A	2:02 pm	ADMITTED into Evidence pursuant to Stipulation (ECFSWCWC spreadsheets reflecting patients who received Theranos blood testing results after Aug 2015)	
	20788	2:03 pm	ADMITTED into Evidence pursuant to Stipulation (2014-07-15 Tempe to Nunn re Theranos Financials, and attached Theranos income/expense statement)	
	20145	2:04 pm	ADMITTED into Evidence pursuant to Stipulation (Projected Statement of Income, and attached Aranca presentation)	
		2:05 pm	Defense rests	
		2:06 pm	Court admonishes Jurors	

TRIAL DATE: June 9, 2022			REPORTER: Irene Rodriguez	CLERK: Cheré Robinson
PLF	DEFT	TIME	DESCRIPTION	
			Jury departs Courtroom	
		2:08 pm	Court breaks for 1 hour, 6 minutes	
		3:14 pm	Court in session with Counsel out of presence of Jury and witnesses	
			Counsel Argument re final jury instructions	
		4:18 pm	Court will decline to give adverse inference instruction	
		4:21 pm	Defense renews Rule 29 Motion	
		4:25 pm	Court adjourns	
			Continued to June 10, 2022, at 10:00 AM for continued Charging Conference	